

BEFORE THE ETHICS COMMISSION  
FOR THE STATE OF TENNESSEE  
AT NASHVILLE

IN RE: TOMMY THOMPSON,

Respondent.

No. 2008-106

## CONDITIONAL PENALTY ASSESSMENT ORDER

This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on November 25, 2008, at its regularly scheduled meeting, upon an informal proceeding to determine whether Tommy Thompson ("Respondent") violated the Governmental Ethics Reform Act's prohibition against lobbyists making campaign contributions. Staff presented records of the Commission and the Registry of Election Finance ("Registry"), and a copy of a check and correspondence provided by respondent. The Commission, upon informal consideration of these matters and the entire record, makes the following conditional findings of fact and conclusions of law:

## FINDINGS OF FACT

1. Jurisdiction. Respondent registered on December 18, 2007, as a lobbyist employed by TV4US and WORDLWIDE INTERACTIVE NETWORK INC. As a registered lobbyist, Respondent was subject to all relevant provisions of the Governmental Ethics Reform Act ("Act").
2. Violation. Records of the Registry show, and Respondent admits, that Respondent gave to Representative Jim Hackworth, a member of the General Assembly, campaign contributions in the form of a check in the amount of two hundred fifty dollars (\$250.00) on August 18, 2008. Respondent relates that the contribution was returned by Representative Hackworth.
3. Notice of violation. On or about November 3, 2008, Respondent received, by certified mail, return receipt requested, notice that the contribution appeared to violate the Act. The notice included a citation to the provision allegedly violated, and that Respondent could choose to participate in an informal proceeding to determine whether there was a violation and, if so, what penalty, if any, should be imposed.
4. Show Cause Hearing. Respondent filed with the Commission a written and sworn response on November 21, 2008, stating that he gave the contribution to Representative

Hackworth not realizing he was in violation of the Act. A few days later Respondent heard about other lobbyists who had violated the Act and he realized his error. He immediately notified Representative Hackworth, who returned his contribution on August 30, 2008.

#### CONCLUSIONS OF LAW

The pertinent portion of the Act provides, "[n]o lobbyist shall offer or make any campaign contribution, including any in-kind contribution, to or on behalf of the governor or any member of the general assembly or any candidate for the office of governor, state senator, or state representative." Tenn. Code Ann. § 3-6-304(j). The Commission concludes that this provision applied to Respondent at the time he admittedly made the contribution. Respondent acknowledged his error in his written submission.

The Commission finds that, in making this contribution, Respondent knowingly violated the Act. Knowing violations of Tenn. Code Ann. § 3-6-304(j) are subject to civil penalties of up to ten thousand dollars (\$10,000). Tenn. Code Ann. § 3-6-306(a)(2)(B)(iii). The Commission finds that the appropriate penalty for the two hundred fifty dollars (\$250) contribution is five hundred dollars (\$500).

The penalty cannot become final until after Respondent has been afforded an opportunity for a hearing. Tenn. Code Ann. § 3-6-107(8). If Respondent wishes to receive a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 - 4-5-325, Respondent may file a timely request for such a hearing as provided in this order.

#### ORDER

It is therefore ORDERED that a civil penalty in the amount of five hundred dollars (\$500) will be assessed against Respondent Tommy Thompson.

It is further ORDERED that the Executive Director shall issue this order for the Commission and file it in the Commission's offices.

It is further ORDERED that the Executive Director shall cause to be provided to Respondent, by either personal service, certified mail return receipt requested, or overnight delivery, a copy of this order, and notice of the following:

Respondent has the right to obtain a contested case proceeding by filing with the Commission, within thirty (30) days of the issuance of this order, a written request for such proceeding; and

That in the event of failure to timely file such a request, the order will become final, may not be appealed to chancery court, will constitute a personal judgment against

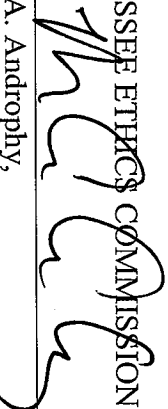
Respondent, and may form the basis for legal action to collect the civil penalty from Respondent.

It is further ORDERED that this order shall not become final until Respondent has had the required opportunity to timely request a contested case proceeding.

SO ORDERED.

Issued this 21<sup>st</sup> day of December, 2008

TENNESSEE ETHICS COMMISSION

By:   
Bruce A. Androphy,  
Executive Director

## TENNESSEE ETHICS COMMISSION

### Instructions and information regarding Requests for Reconsideration

A person against whom a conditional civil penalty assessment order has been issued by the Commission may seek reconsideration of a conditional assessment order by filing with the Commission, within fourteen (14) days of the issuance of the order, a written request for reconsideration.

- (1) The written request must be *received* in the Commission's office within fourteen (14) days after the date the order was issued.
- (2) Requests received more than fourteen (14) days after the date the order was issued will be denied.
- (3) The request must include the name and address of the party seeking reconsideration, the case number, and the date and nature of the order for which reconsideration is requested.
- (4) The request must include additional information that was not available at the meeting during which the conditional civil penalty assessment order was approved by a vote of the members.

For the period of time during which a timely request for reconsideration of a civil penalty order is pending, the Commission's order will not become final. Upon a vote of four (4) of the Commission members in attendance to deny a request for reconsideration, the Commission shall issue an order denying the request. A person wishing to appeal from the denial of a request for reconsideration may do so by filing, within ten (10) days of the issuance of the order, a petition for a contested case hearing pursuant to the Uniform Administrative Procedures Act. Such petition must conform to the instructions on the next page.

For questions about this form, please contact the Commission staff at 615.253.8632.

PLEASE SEE NEXT PAGE FOR INFORMATION AND INSTRUCTIONS REGARDING PETITIONS FOR  
CONTESTED CASE HEARING.

## **TENNESSEE ETHICS COMMISSION**

### **Instructions and information regarding petitions for contested case hearing**

Within thirty (30) days of the issuance of a conditional civil penalty assessment order or within ten (10) days of the issuance of an order denying a timely motion to reconsider a conditional civil penalty assessment order, a person subject to the civil penalties set forth in the order may initiate a contested case proceeding by filing a petition with the Commission. Any petition received after the prescribed time shall be denied.

- (1) The petition shall clearly and concisely set forth petitioner's grounds for contending that the penalty should be waived or reduced, or otherwise modified in any way.
- (2) The petition shall include a statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.
- (3) If the person filing the petition is unable to state the matters above in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) days prior to the time set for the hearing. Tenn. Code Ann. § 4-5-307(b)(3).
- (4) Oath. The petition shall be signed under oath before a notary public or other official authorized to take oaths, and shall specify that the factual allegations are made upon personal knowledge of the petitioner; provided, that if any of the allegations in the petition are known to petitioner only by information and belief, rather than by personal knowledge, the oath shall specify each allegation made only on information and belief.
- (5) For all factual allegations made on information and belief, rather than petitioner's personal knowledge, the petition shall set forth the grounds upon which such information and belief are based.
- (6) Filing of petition.
  - a. Methods. The alleged violator may file the petition by hand delivery, by first class mail, by certified mail, or by facsimile transmission. It is the alleged violator's obligation to ensure timely receipt of the petition by the Commission. The risk of non-delivery shall be on the alleged violator.
  - b. File stamped copy. If the alleged violator wishes to receive a file-stamped copy of the petition as proof of timely filing, the violator may file a second copy of the petition and exhibits and, if the petition was filed other than by hand delivery, a self-addressed, stamped envelope with sufficient postage prepaid to ensure mailing to the petitioner.

Upon timely filing of a petition for a hearing, the Executive Director or his designee shall cause a notice of the time, date, place, and nature of the hearing to be served, or mailed by certified mail, return receipt requested, to the person who filed the petition. Tenn. Code Ann. § 4-5-307(b). The person who filed the petition has the right to appear at the hearing and to be represented by counsel.

For questions about this form, please contact the Commission staff at 615.253.8632.